

REMARKS

Claims 1, 3-14, 16 and 17 are pending in this application. Claim 2 is cancelled and claims 1, 3, 8, 11 and 13-14 are amended. No new matter has been presented.

Claims 1-4, 8, 13-14 and 16-17 are rejected under 35 USC 102(b) as anticipated by Worwag, U.S. Patent No. 5,416,948 (hereinafter "Worwag I"), as well as Worwag, U.S. Patent No. 5,293,665 (hereinafter "Worwag II"). These rejections are respectfully traversed.

In rejecting claim 1, the Office Action gives no patentable weight to several recited features of claim 1, asserting that since claim 1 does not define the term "restriction device" as having any specific structure, the recited features corresponding to the "restriction device" are mere statements of intended use. Applicants respectfully disagree. The claimed "restricting device being movable by the flow of debris from the chamber," as recited in original claim 1, is not a statement of intended use, but rather a structural limitation – defining a characteristic of the structure and environment of the restricting device – that must be given patentable weight.

Nevertheless, in order to expedite the prosecution of this application, claim 1 has been amended to recite "the restricting device comprising a guide vane ..., the guide vane being *resiliently movable to an open position in response to a flow of debris past the restricting device* to restrict the cross-section of the discharge outlet to a lesser extent" (emphasis added). These features do not constitute a mere statement of intended use or purpose. Specifically, the recited features define a specific structure limited in its movability and thus should be given patentable weight. See MPEP 2111.03.

Worwag I fails to teach or suggest these limitations of claim 1. Specifically, Worwag I discloses a cleaner head having three flaps 80, 81, 82, each of which is moveable between an open position and a closed position to control the manner in which air is drawn into the cleaner head. The cleaner head further includes a rocker-type switch 12a that is actuated by the foot of a user and is moveable between three different positions. The switch 120 is coupled to each of the flaps 80,

81, 82 by an arrangement of cams and arms such that movement of the switch 120 causes the flaps 80, 81, 82 to adopt different configurations. See Worwag I, col. 7, line 21 to col. 8, line 6. Thus, the flaps of Worwag I are moveable in response to the user's foot, and not in response to flow of debris. In fact, when a particular flap in Worwag I is closed, no air or debris can even flow past that flap. Also, as depicted in FIGs. 1-2 of Worwag I, the flaps are not capable of being moved by the flow of debris, since the principle of operation of Worwag I requires the flaps to block any air or debris from getting through once the flaps are locked in a desired position. Thus, Worwag I fails to anticipate claim 1, since its flaps are not resiliently movable to an open position in response to a flow of debris past them, as required by claim 1.

Worwag II discloses a cleaner head having a member 31, 34 that is moveable between two positions. In a first position, air is drawn in through a turbine inlet 20, and in a second position air is drawn in through a dirty-air inlet 19. Once again, the moveable members 31, 34 of Worwag II do not move in response by flow of debris past the moveable member. Rather, the moveable members 31, 34 are operable to block or unblock the intake channel 23 and are not moveable in response to debris flowing through the intake channel 23. Thus, Worwag II also fails to anticipate claim 1.

Accordingly, claim 1 is allowable. Claims 3-4, 8, 13-14 and 16-17 are dependent on claim 1 and are allowable for at least the same reasons.


Claims 9-12 are rejected as being unpatentable over Worwag I and/or Worwag II. These claims are dependent on claim 1 and are allowable for at least the same reasons as set forth above. The provision of foam in the Worwag I and Worwag II structures would not meet claims 9-12.

In view of the above, each of the claims in this application is in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to withdraw the outstanding rejection of the claims and to pass this application to issue. If it is determined that a telephone conference would expedite the prosecution of this application, the Examiner is invited to telephone the undersigned at the number given below.

In the event the U.S. Patent and Trademark Office determines that an extension and/or other relief is required, applicant petitions for any required relief including extensions of time and authorizes the Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to **Deposit Account No. 03-1952** referencing docket no. **424662010400**.

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Respectfully submitted,

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